



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON, D.C. 20370-5100

ELP
Docket No. 3141-00
27 October 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 25 October 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 13 April 1962 for a minority enlistment at age 17. The record reflects that that you served nearly seven months without incident. However, during the 23 month period from November 1962 to October 1964 you received two nonjudicial punishments (NJP) and were convicted by a special court-martial. Your offenses consisted of two periods of unauthorized absence (UA) totalling about 44 days and altering the date of birth on a military identification card and loaning that card to another person. During the foregoing period, you were also advanced to FN (E-3). However, on 12 May 1965 the command withdrew its recommendation for further advancement due to your inconsistent military behavior.

On 14 May 1965 you were questioned by an agent of the Office of Naval Intelligence regarding your use of narcotics and other drugs. You were advised of your rights and made a voluntary statement to the effect that since entering the Navy you had been using inhalers, Benzidrine and Tuminal capsules and Robotussin

cough syrup; and smoked marijuana when you could get it. You stated that at the end of a leave period, you were talked into turning yourself in to the police as narcotics user. You realized that you were becoming dependent on the pills you were taking and were afraid of being caught by military authorities if you continued to use drugs. You stated that you wanted out of the Navy and to go to a hospital where your drug problems could be straightened out.

On 19 May 1965 you underwent a psychiatric evaluation and were diagnosed with drug addiction, in remission; and a passive-aggressive and antisocial personality. The examining psychiatrist concluded that your characterological disorder precluded further useful service and recommended administrative separation.

On the same day, you were notified that you were being considered for an undesirable discharge by reason of drug addiction. You were advised of your procedural rights and waived your right to present your case to an administrative discharge board (ADB). Thereafter, the commanding officer recommended an undesirable discharge by reason of unfitness due to drug addiction. On 21 June 1965 the Chief of Naval Personnel directed an undesirable discharge by reason of unfitness. You were so discharged on 28 June 1965.

The record further reflects that the Florida district court probation office requested information on your naval service and noted that on 25 October 1994, you were convicted of bank fraud.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, limited education, and the fact that it has been more than 35 years since you were discharged. Your contention to the effect that President Ford granted amnesty to individuals discharged for drug addiction is without merit. Amnesty was granted to draft dodger and deserters, but not to individuals separated for drug addiction. In 1971, the Secretary of Defense directed review and recharacterization of discharges under other than honorable conditions issued solely on the personal use or possession of drugs. The Board concluded that the foregoing factors and contention were insufficient to warrant recharacterization of your discharge given your record of two NJPs and a special court-martial conviction of 41 days of UA. The Board noted that as a result of the foregoing disciplinary actions you could have been discharged for misconduct due to frequent involvement of a discreditable nature. The Board further noted the aggravating factor that you waived an ADB, the one opportunity you had to show why you should be retained or discharged under honorable conditions. The Board also concluded that characterization as under other than honorable conditions was not based solely on drug

addiction given your prior record of two NJPs and a conviction by special court-martial. Additionally, a Federal Bureau of Investigation report obtained by the Board noted that your post-service conduct has been marred by convictions of automobile theft, possession of dangerous drugs, bank fraud, grand theft, and a parole violation. The Board therefore concluded that the discharge was proper and no change is warranted. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director